

### A forest convention - yes or no? Position paper for the BMZ on the state and the perspectives for creating a legally binding instrument for international forest policy

Scholz, Imme

Veröffentlichungsversion / Published Version

Arbeitspapier / working paper

Zur Verfügung gestellt in Kooperation mit / provided in cooperation with:

SSG Sozialwissenschaften, USB Köln

#### Empfohlene Zitierung / Suggested Citation:

Scholz, I. (2004). A forest convention - yes or no? Position paper for the BMZ on the state and the perspectives for creating a legally binding instrument for international forest policy. (DIE Discussion Paper, 6/2004). Bonn: Deutsches Institut für Entwicklungspolitik gGmbH. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-193859>

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## A Forest Convention – Yes or No?

Position paper for the BMZ on the state and the perspectives for creating a legally binding instrument for international forest policy

Imme Scholz

Discussion Paper / Deutsches Institut für Entwicklungspolitik  
ISSN 1860-0441

**Scholz, Imme:** A forest convention – yes or no? : position  
paper for the BMZ on the state and the perspectives for  
creating a legally binding instrument for international forest policy /  
Imme Scholz. – Bonn : Dt. Inst. für Entwicklungspolitik, 2004. –  
(Discussion Paper / Deutsches Institut für Entwicklungspolitik ; 6/2004)  
ISBN 3-88985-280-7  
Dt. Fassung u. d. T.: Waldkonvention – ja oder nein?  
ISBN 3-88985-275-0

© Deutsches Institut für Entwicklungspolitik gGmbH  
Tulpenfeld 4, 53113 Bonn  
 +49 (0)228 94927-0  
 +49 (0)228 94927-130  
E-Mail: [die@die-gdi.de](mailto:die@die-gdi.de)  
[www.die-gdi.de](http://www.die-gdi.de)

Dr. Imme Scholz, Sociologist, Research Officer at DIE since 1992.  
Since 2002 Head of the Department for Global Environmental Policy,  
Transformation and Stabilization.  
E-Mail: [imme.scholz@die-gdi.de](mailto:imme.scholz@die-gdi.de)

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## Abbreviations

ASEAN	Association of Southeast Asian Nations
BMU	Federal Ministry for the Environment, Nature Conservation and Nuclear Safety
BMVEL	Federal Ministry of Consumer Protection, Food and Agriculture
BMZ	Federal Ministry for Economic Cooperation and Development
CBD	Convention on Biodiversity
C&I	Criteria and indicators for sustainable forest management
CIFOR	Center for International Forestry Research
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CPF	Collaborative Partnership on Forests
ECOSOC	UN Economic and Social Council
DC	Development cooperation
FAO	Food and Agriculture Organization of the United Nations
FERN	Forests and the European Union Resource Network
FLEGT	Forest Law Enforcement, Governance and Trade
FSC	Forest Stewardship Council
GEF	Global Environment Facility
IAF	International Arrangement on Forests
ICRAF	International Center for Research in Agroforestry
IFF	International Forum on Forests
IPF	International Panel on Forests
ITTA	International Tropical Timber Agreement
ITTO	International Tropical Timber Organisation
IUCN	International Union for the Conservation of Nature
IUFRO	International Union of Forest Research Organizations
LDC	Least Developed Countries
NFP	National Forest Program
NGO	Nongovernmental organization
TFAP	Tropical Forest Action Plan
UNCCD	United Nations Convention to Combat Desertification
UNDESA	UN Department for Economic and Social Affairs
UNDP	United Nations Development Program
UNEP	United Nations Environment Program
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
WBGU	Wissenschaftlicher Beirat der Bundesregierung Globale Umweltveränderungen / German Advisory Council on Global Change
WRI	World Resources Institute
WWF	World Wide Fund for Nature

## Executive summary

In March 2004 Division 312 of the Federal Ministry for Economic Cooperation and Development (BMZ) asked the DIE to prepare a position paper on the advantages and drawbacks of a legally binding instrument of international forest policy and the options open for possible action. The paper was to be conceived against the background of the existing conventions on climate protection, protection of biodiversity, and combating desertification. The reason for the urgency involved was that the United Nations Forum on Forests (UNFF) had defined a timetable for reaching a decision, by the year 2005, on a legally binding framework for the protection and sustainable management of the world's forests.

Some 30 % of the earth's surface is covered by forests; over half of the world's forest cover consists of tropical and subtropical forests. Boreal-zone forests account for roughly one third of the world's overall forest cover. In view of the high percentage of tropical and subtropical forests it is not surprising that it is here, and above all in Africa, that the highest rates of deforestation are to be found. The increase in the dynamics of deforestation and a heightened sensitivity for the irretrievability of these ecosystems, and the ecological, social, and economic costs associated with them, have served to place the issue squarely on the political agenda.

In analyzing the processes that lead to deforestation and forest degradation, it is customary to distinguish between direct causes, i. e. immediately observable events, and deeper-lying, systemic causes and framework conditions (underlying causes). The principal direct causes include the transformation of forests into cropland and grazing land, followed by mining, construction of dams and roads, and overexploitation of forest products (timber, firewood, etc.). Forests are furthermore destroyed by storms and fires, flooding, air pollution, and disease. Apart from population growth, poverty, short-term profit orientation, external debt, and unrest and war, the underlying causes are understood to include a bundle of factors that are usually subsumed under the category of policy and market failure.

The underlying causes of deforestation and forest degradation are closely bound up with structural economic and political conditions that are as a rule beyond the control of environment ministries or forestry authorities. These conditions are in part national, in part international in nature, and developing countries are for this reason only in part able to improve them on their own. Development cooperation therefore has an important role to play here. The experiences of the industrialized countries indicate that practically the only way to help reverse the present deforestation trend is to accelerate the process of structural change toward modernized, urban societies. This means that the international forest agenda is inseparably intertwined with the paramount development goal of poverty reduction – which has been concretized in the Millennium Development Goals.

But even in countries without any major prospects of structural change over the medium term, the protection and sustainable use of forests is important to poverty reduction. Studies have shown that the forest and its resources provide an important source of income precisely for the rural poor. Some 20 % of their overall annual income stems from the forest, chiefly from game and firewood. Also, forests are an important safety net for times in which other sources of income grow scarce.

The conventions on climate protection (UNFCCC), protection of biodiversity (CBD), and combating desertification (CCD) adopted at the UN conference on environment and development in Rio de Janeiro in 1992 also cover some subsectors of international forest policy. Conventions are an important instrument that can be used to focus development cooperation and that provides stable legitimacy for taking action in the field of environmental cooperation with developing countries. The principle of “common but differentiated responsibilities” of the rich and the poor countries, which was adopted in Rio de Janeiro in 1992 and is based on the notion of global common interests, is easier to explain to voters, and probably even more reasonable than to expect public support for a development cooperation defined in purely altruistic terms.

The object of the present report was not to look more closely into the interfaces between the Rio conventions but to weigh the benefits of international cooperation based on conventions against other forms (e.g. bilateral development cooperation).

The most important approach of bi- and multilateral development cooperation in the forest sector consists in national forest programs (NFPs), which are designed to achieve an integrated, interministerial course of action on sustainable forest management and forest protection in developing countries. Analysis of the NFPs has shown that the most important bottlenecks to their implementation must be sought in the inherent difficulties of integrated action. A forest convention could help to eliminate these bottlenecks, as is shown by the experiences made in connection with other convention processes, where slow progress is being made with integrated action.

Against the background of the lessons learned from the convention processes, the benefits of a forest convention may be summarized as follows:

- the political weight of the problems addressed in conventions has increased at the national level; this would be the most important goal of a forest convention, and it would probably be possible in a number of countries, above all if, in analogy to the Rio Declaration and the CBD, the formulations used clearly stated that countries' national sovereignty over their forests would not be questioned;
- the principle of "common but differentiated responsibilities" agreed on at the 1992 Earth Summit requires both industrialized and developing countries to place national problems in a global context and to ensure that national activities do not cause any global or regional damage; this approach addresses both the national and the international factors behind deforestation and forest degradation and ties national sovereignty to global common interests;
- conventions foster the juridification of environmental goals in a number of sectors at the national level; a forest convention could serve to accelerate this process in the forest sector and use capacity-building measures to mitigate implementation deficits and weaknesses in intersectoral coordination at the national level;
- conventions are geared to coordinated international action; a forest convention could mean additional benefits here inasmuch as it would focus attention on issue areas that are not priorities of existing conventions (above all sustainable forest management);
- the political dynamics unfolding immediately after the 1992 Rio Earth Summit made it possible to mobilize additional financial resources for measures in developing countries and countries in transition; today, with official development assistance stagnating, it would be essential to prevent funds from being drained into a forest convention from the budgets of the other three Rio Conventions.

A forest convention would also have its costs. These would include costly, formalized negotiation processes, sometimes aggravated by confrontational negotiating styles and a time gap between agreement on goals and actual implementation. Another difficulty is that a forest convention would be expected to achieve rapidly visible reductions in deforestation rates. This is unrealistic, however, because any such reduction requires above all structural economic and social changes and different strategies for economic growth in developing countries. An internationally binding instrument on forest policy alone would be unable to bring these changes about in the short term.

Finally, a forest convention would call for the mobilization of additional financial resources for relevant investments in developing countries and countries in transition. One important potential approach here is the proposal of the German Advisory Council for Global Change (WBGU) to pay compensation for the nonutilization of national environmental goods of global value.

Despite these costs implied by the negotiation and implementation process, it is important to bear in mind that the costs of nonnegotiation would be likely to be higher in the long run. In most developing countries the support offered thus far by the international community for action against deforestation has not been sufficient to reverse the trend of secular deforestation observed in the past decades. Heightened commitments are needed to strengthen those groups in developing countries that work actively to prevent short-term economic growth from being achieved at the expense of forests.



The time has come to engage in negotiations that are more binding than those that could be conducted in the framework of the present international forest dialogue. One approach to reaching such a higher level of binding force could be sought in a new forest convention that defines the framework for the various regional processes designed to promote sustainable forest management and that serves to focus all donor-supported measures. Compared with the alternatives, the proposal on a framework convention with regional annexes appears to be the most suitable one.

#### **Possible goals and fields of action of a forest framework convention**

- Promotion of sustainable forest management as an effective approach to forest protection and reduction of poverty among forest-using population groups,
- Efforts to combat deforestation and forest degradation as a means of protecting the ecological, economic, social, and cultural functions of forests for present and future generations,
- Capacity-building geared to sustainable forest management and the implementation of national forest programs, including promotion of participation, consideration of traditional knowledge, and technology transfer,
- Cooperation on improvement of forest-reporting.

Additional financial resources for the implementation of these goals should be provided through the GEF.

- Possible elements of a forest framework convention,
- Framework convention designed to specify overriding goals and fields of action (see above),
- Regional annexes covering the implementation of goals at the regional level,
- Regional and interregional coordination of measures in current programs such as FLEGT and NFP.

A framework convention with regional annexes would have the advantage that it would combine development and coordination of policies and laws (framework convention) with flexible forms of cooperative implementation (regional annexes). Furthermore, the regional annexes would make it possible to define differentiated priorities and implementation strategies in line with regional and national givens. This is necessary because the obstacles and approaches to improvements in the forests of Africa, Latin America, and Asia are very different in nature.

Another important point here is the need for exact coordination with the new International Tropical Timber Agreement, which is presently under negotiation and is likely to include coniferous timber products as well. Compared with its original, narrow mandate, which was originally restricted to the trade in tropical timber, the ITTA has substantially enlarged its fields of action: Support for sustainable forest management, definition of criteria and indicators for sustainable forest management, and promotion of pilot projects have in recent years moved more and more into the center of attention. The conclusion of a forest framework convention could relieve the ITTA of these functions and allow it to return to its focus on trade aspects (including the aspects mentioned in connection with the EU's FLEGT action plan).

In view of the considerations discussed above, the BMZ should decide to work for a forest framework convention with regional annexes. In this way the German government would be perceived as an active supporter of an international initiative on the sustainable use and protection of all forests. The following minimum conditions would have to be met to ensure a successful course of negotiations:

- timely formation of a like-minded group, at least within the EU, and ideally including G77 countries, that would work out proposals and exert substantial and protracted influence on the negotiation process;
- appropriation of additional budgetary funds to boost suitable GEF operational programs (e.g. 3, 12, and 15) or to finance additional operational programs.

Should it prove impossible to meet these conditions, the appropriate choice would be a piecemeal approach; i. e. a combination of different instruments at the multilateral, global, bilateral, and national levels, which would be geared to countering the problem of deforestation and promoting sustainable forest management. Continuation of the international forest dialogue, e.g. in the framework of a new UNFF mandate, would not appear to be reasonable. The piecemeal approach would focus on strengthening the forest-relevant measures set out under the Rio Conventions and geared to sustainable forest management as well as on forging links between them and national forest programs. It would also be important to further develop regional approaches designed to ensure the protection and sustainable use of forests (e.g. in the Amazon and the Congo basin, and in the Mekong delta). At the same time, it would be important to support and advance other measures, including efforts to combat the trade in illegally logged timber (FLEGT, AFLEG) and promote certification of sustainable forest management. On the whole, this could serve to strengthen both the rule of law and enforcement in the forest sector.

# 1 Introduction: the task, subject matter, and structure of the present report

In March 2004 Division 312 of the Federal Ministry for Economic Cooperation and Development (BMZ) asked the DIE to prepare a position paper on the advantages and drawbacks of a legally binding instrument of international forest policy and the options open for possible action. The paper was to be conceived against the background of the existing conventions on climate protection, protection of biodiversity, and combating desertification. The reason for the urgency involved was that the United Nations Forum on Forests (UNFF) had defined a timetable for reaching a decision, by the year 2005, on a legally binding framework for the protection and sustainable management of the world's forests. An ad hoc expert group had been formed to work out the parameters for the various legal options associated with an instrument of this kind. The UNFF's member countries were invited to submit their positions to the group by the end of January 2004. In 2005 a decision will have to be made on whether to extend the UNFF mandate and to adopt an internationally binding instrument.

Since November 2003 the three German federal ministries involved – the Federal Ministry for Economic Cooperation and Development (BMZ), the Federal Ministry of Consumer Protection, Food and Agriculture (BMVEL), and the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) – have been working to coordinate a joint position. The various goals and proposals that have been formulated thus far reflect just about the total spectrum of positions found among the international community on this issue, a state of affairs that has made it difficult to reach a consensus. The three principal positions represented within the German government may be summed up as follows:

- conclusion of a forest convention geared to conserving the world's forest cover (BMVEL);
- finalization of a forest protocol under the Biodiversity Convention (BMU);
- promotion of an integrated strategy for sustainable forest management and protection of tropical forests, using existing instruments of international law; skepticism vis-à-vis a further convention (BMZ).

The BMZ's skepticism is fueled above all by the experiences made since 1992 with the three Rio Conventions as well as by the fact that the US and Brazil have forged a powerful veto coalition in opposition to any further internationally binding instrument. This coalition may well be joined by other relevant forest countries.

The dispute surrounding a binding instrument under international law centers on the question of whether and to what extent such an instrument can provide an effective contribution to the goal of sustainable forest protection and management. This central issue is bound up with a number of further questions:

- Are forests a global public good, or are they subject primarily to national jurisdiction? Is it the root causes of deforestation and forest degradation or their effects – or both – that call for globally coordinated action?
- Can legally binding international instruments provide incentives for processes of national institutional change? How are these incentives set?

To attempt to answer these questions, the present paper will start out by presenting a brief overview of the causes and effects of processes of deforestation and forest degradation. This will be followed, second, by a discussion of the state of the international forest arrangements that have emerged from the agreements reached at the 1992 Rio Earth Summit, the forest dialogue at the global, multilateral, and regional level, and various approaches advocated by civil-society groups. The paper will then, third, go on to discuss some important national approaches to forest-policy reform. Development cooperation (DC) has a central role to play in translating these approaches into practice. Fourth, the paper will discuss the impacts that the Rio Conventions have had thus far and look into the viability of the proposals advanced by BMVEL and BMU for a legally binding instrument. Fifth, and finally, the paper

will draw a number of conclusions and set out some recommendations for possible positions for which the BMZ might opt under various conditions.

## 2 Dimensions, causes, and consequences of processes of deforestation and forest degradation

### 2.1 Dimensions

Some 30 % of the earth's surface is covered by forests; over half of the world's forest area consists of tropical and subtropical forests. Boreal-zone forests account for roughly one third of the world's overall forest cover. In view of the high percentage of tropical and subtropical forests it is not surprising that it is here, and above all in Africa, that the highest rates of deforestation are to be found. The increase in the dynamics of deforestation and a heightened sensitivity for the irretrievability of these ecosystems and the ecological, social, and economic costs associated with them have served to place the issue squarely on the political agenda.

<b>Table 1: Changes in forest cover from 1980–2000, broken down by region</b>				
<b>Region</b>	<b>Forest cover</b>	<b>Annual change</b>		
	<b>(in 1000 ha)</b>	<b>(in 1000 ha)</b>		<b>( in percent)</b>
	<b>2000</b>	<b>1980–1990</b>	<b>1990–2000</b>	<b>1990–2000</b>
Africa	649,866	–2,828	–5,262	–0.78
Asia	547,793	–999 <sup>a</sup>	–364	–0.07
Oceania	197,623	–4 <sup>b</sup>	–365	–0.18
Europe	1.039,251	242 <sup>c</sup>	881	0.08
North and Central America	549,304	–17 <sup>d</sup>	–570	–0.10
South America	885,618	–6,047 <sup>e</sup>	–3,711	–0.41
World	3.869,455	–9,953	–9,391	–0.22
a: Developing countries, incl. Oceania; b: industrialized countries; c: incl. former Soviet Union; d: without Central America; e: incl. Central America and the Caribbean				
Source: UNFF (2002) and IPF (1996); data from FAO forest reports				

### 2.2 Causes

In analyzing the processes that lead to deforestation and forest degradation, it is customary to distinguish between direct causes, i. e. immediately observable events, and deeper-lying, systemic causes and framework conditions (underlying causes). The principal direct causes include the transformation of forests into cropland and grazing land, followed by mining, construction of dams and roads, and overexploitation of forest resources (timber, firewood, etc.). Forests are furthermore degraded by storms and fires, flooding, air pollution, and disease. Apart from population growth, poverty, short-term profit orientation, external debt, and unrest and war, the underlying causes are understood to include a bundle of factors that are usually subsumed under the category of policy and market failure (see IPF 1996). The present section will take a more exact look at this complex of causes, seeking to establish interrelationships between them.

The direct and underlying causes are closely interrelated and intertwined, and for this reason we must speak in this connection of different chains of cause and effect. The many differences to be observed between deforestation processes per country and epoch serve to increase enormously the complexity of the relationships between causes and effects. This, and the persistently inadequate data situation in many countries, creates much room for controversies, both over findings and the measures needed to combat deforestation and/or over the unintended impacts of other political interventions.

The effects of two of the mainsprings of deforestation – economic growth and population growth – clearly indicate the complexity of these relationships. As a rule, population growth and rising per capita incomes lead to increasing demand for food, and thus to growth in agricultural production. In countries with large reserves of arable land and low population densities, this situation leads, in an initial phase, to extensive growth, and thus to more and more deforestation. For example, roughly half of the growth in food production in Africa since the 1960s is attributable to growth in agricultural land. Conversely, in countries with high population densities and scarce land reserves, population growth tends more to lead to yield increases (Angelsen / Kaimowitz 2001).

A second phase may entail an increase in forest cover, in particular if the process of structural change associated with economic growth and industrialization (increasing urbanization, decreasing rural population pressure, increasing urban wages, growing agricultural productivity) leads to growth in urban jobs and an increase of capital intensity of agriculture. Comparative historical analyses of industrialized and developing countries in which deforestation has been followed by stabilization of or even or even increases in existing forest areas indicate that this process has been marked by different root causes and courses and occurred over very long periods of time.<sup>1</sup> In Europe and North America this process of structural change has, since the 19<sup>th</sup> century, made farming on marginal soils unprofitable and served to boost reforestation. Furthermore, wood scarcity, which made itself felt in Europe as early as in the 18<sup>th</sup> century, presenting a serious economic problem, induced governments to subsidize afforestation efforts. In the US the transition period took roughly 130 years, from 1840 to 1970, to complete. The transitional processes observed since 1960 have been caused by other forces: on the one hand, afforestation of arid areas (Israel, Mali, South Africa) and on the other by afforestation efforts undertaken by small farmers and public-sector institutions in densely populated areas and geared to soil and water conservation, particularly in countries not affected by processes of structural change tending in the direction of industrialization and urbanization (e.g. in Burundi). In China the devastating effects of deforestation (erosion, flooding) induced the authorities to embark on a course of afforestation and to impose a logging ban for natural forests.

In tropical countries economic growth tends to have different impacts. Deforestation rates are highest in middle-income countries, while they tend to be lower in both poor and more prosperous tropical countries: “Increases in economic activity in economically stagnant places stimulates deforestation because people now have the capital to exploit timber resources. Further increases in the volume of economic activity change its composition, leading to industrialization and urbanization, which in turn may account for the reduced human pressures on forests” (Rudel 1998, p. 547).

This analysis of the effects of growth of populations and incomes also indicates that poverty alone cannot be regarded as the driving force behind deforestation or forest degradation. “The way in which people manage (forest) resources will have much to do with their access and property rights, as well as the distribution of the benefits of resource utilization, all of which constitute other dimensions of poverty. Poverty in this context is perhaps best viewed as a shortage of options that may force people into managing natural resources, including forests, in less than optimal ways, often to provide for short-term needs rather than more long-term and sustainable options” (IPF 1996, pp. 19f). An additional factor is that poor population groups in remote forest areas do not as a rule have access to public services and are instead forced to rely on the support provided by local potentates, who may include e.g.

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1 See Rudel (1998) for a macroeconomic analysis and Mather (2001) for an outline of current trends in industrialized countries.

logging companies. A further poverty-related factor behind deforestation is that large segments of the rural population, above all in Africa, are not connected to the electricity grid and are therefore reliant on firewood for cooking and heating.

In other words, and as studies have shown, the forest and its resources provide an important source of income for the rural poor (see Vedeld / Angelsen / Sjaastad / Kobugabe Berg 2004). Some 20 % of their overall annual income stems from the forest, chiefly from game and firewood. Also, forests are an important safety net for times in which other sources of income grow scarce.

The term policy failure is generally understood to refer to various negative effects that are attributable to wrongly conceived policies, deficits in the implementation or enforcement of environmental and other laws, and faulty planning processes. These effects include e.g. the ecological damage which major infrastructure projects necessarily entail, and which are often amplified when no targeted flanking measures are planned and implemented. Weakness in public administration, including inadequately trained personnel and insufficient practice in interministerial coordination, tend to augment the unintended negative effects of public-sector interventions. Weak environmental authorities and rule-of-law structures furthermore tend to block the implementation of environmental laws and other rules designed to guide the decisions of economic agents in an environmentally friendly direction. In many cases, for instance, large timber companies are able to evade legal regulations.

There are many different manifestations of market failure: As a rule there are no markets for forest-related ecological services, and tradable forest products (timber, firewood, other nontimber products) often command very low prices. Another negative factor must be seen in politically defined incentives such as subsidies for farming and ranching and low concession fees that make sustainable forest management economically unattractive.

Whether and to what extent there is a causal relationship between external debt and structural adjustment programs on the one hand and deforestation on the other remains a controversial issue.<sup>2</sup> One of the obligations assumed by the international community in the framework of the forest dialogue is to examine and document this relationship. This has proven to be a difficult task.<sup>3</sup> There is a large measure of agreement that the pressure of debt service reinforces public policies geared to strengthening branches of industry that provide short-term increases in revenues (e.g. agricultural exports), with the consequence that relevant environmental concerns of a medium- and long-term nature are put on the back burner. Often, structural adjustment programs require participating countries to cancel subsidies, e.g. for fertilizers and pesticides. This may serve to increase the attractiveness of extensive agricultural production systems and thus to raise pressure on forested areas. In other words, policy failure can get worse.

One thing that has grown worse in recent years is the destruction of forests by armed conflicts and refugee flows, a phenomenon that has been observed above all in the armed conflicts in the Democratic Republic of Congo and in West Africa. The UN Security Council has accused Liberian President Charles Taylor of using revenues from illegal logging to import, likewise illegally, arms as well as to support the RUF rebel organization in Sierra Leone. In the Democratic Republic of Congo timber exports have likewise been used to finance the civil conflict there (see Verbelen 2002).

Apart from these political and economic complexes of causes responsible for deforestation, a further factor has grown in importance in recent years. The huge and growing dimensions of forest fires since the late 1990s (e.g. in Indonesia, the US, Australia, southern Europe, and Brazil) have awakened suspicions that these fires may already be the first harbingers of climate change exacerbating the forest-fire risks associated with certain land-use systems. The powerful storms experienced in Europe in 1999 have served to stoke these fears (see FAO 2001).

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2 See the country studies prepared on behalf of the WWF and compiled by Reed (1996); these studies have as a rule failed to confirm any direct correlation in this sense.

3 See the proposals for action advanced by IPF No. 67 (g) and IFF No. 64 (j), cited in UNFF (2002), pp. 4–7.

It can be noted by way of a summary that the underlying causes of deforestation and forest degradation are closely bound up with structural economic and political conditions. These conditions are in part national, in part international in nature, and developing countries are for this reason only in part able to improve them on their own. As a consequence, development cooperation has an important role to play here (see Chapter 4).

## 2.3 Consequences of deforestation and forest degradation

While the individual causes of deforestation are conditioned by complex social, economic, and political processes, the consequences are relatively easy to outline. Any impairment or indeed loss of the ecological services provided by forests finds expression locally in increasing erosion and flooding as well as in changes in microclimates and precipitation levels. In global terms, this leads to rising CO<sub>2</sub> emissions and thus reinforces climate change. The economic gains that deforestation and degradation processes may entail for individual groups of actors (chiefly logging companies, timber dealers, soybean farmers) must be set against the costs that ecological damage inevitably mean for the local population (above all poor and indigenous groups), the public sector, and future generations. The same goes for the costs implied by the associated loss of biodiversity.

## 3 Present state of international forest agreements

Against the background of the situation outlined above – increase in the dynamics of deforestation, analysis of the causes, which developing countries are unable to address on their own – the international community has undertaken a number of efforts to promote the protection and sustainable use of forests. Even prior to the 1992 Rio Earth Summit, several proposals for a forest convention were advanced under pressure generated by the international environmental movement and world public opinion (see Humphreys 1996). But no agreement was reached, on the contrary: In Rio forests were one of the most contentious issues on the agenda, indeed one that opened up particularly deep divides between industrialized and developing countries. In the end no more than a nonbinding declaration was adopted on principles for a global consensus on the management, protection, and sustainable development of all types of forests. Chapter 11 of Agenda 21 sets out a number of proposals on combating deforestation.

Since then, though, considerable progress has been made. Two international forest-dialogue forums were created in the framework of the Commission for Sustainable Development (CSD) and – later – of ECOSOC; both are intended to reduce the discrepancies between industrialized and developing countries and to broaden the base for consensus. Together, these two forums (the Intergovernmental Panel on Forests, 1995 to 1997, and the Intergovernmental Forum on Forests, 1997–2000) assembled a total of 270 proposals for action to promote sustainable forest management. The proposals have no legal force; and the countries that participated in the dialogue have only assumed political responsibility for implementing the proposals. In 2000 a so-called International Arrangement on Forests (IAF) was created “to promote the management, conservation and sustainable development of all types of forests and to strengthen long-term political commitment to this end.” The IAF consists of the United Nations Forum on Forests (UNFF), a body established to continue the international forest dialogue in the tradition of the IFF, and the Collaborative Partnership on Forests (CPF), a partnership between 14 multi-lateral organizations active in the forest sector.<sup>4</sup> The IAF’s task is to accompany and strengthen the process involved in implementing the proposals for action advanced by IPF/IFF. Following a series of

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4 It includes the FAO, which holds the chair, the secretariats of CBD, UNFCCC and UNCCD, CIFOR, IUFRO, UNDESA, GEF, ITTO, UNDP, UNEP, World Bank, IUCN, and ICRAF.

major debates, this forum was also entrusted with the task of working out proposals for a binding international agreement that would accord greater weight to the protection and sustainable use of forests.

In parallel to this process, three forest-relevant issues were also addressed in the framework of the Rio Conventions. The Kyoto Protocol, which is intended to initiate some first steps aimed at implementing the Climate Framework Convention, does not provide for any instruments geared to protecting the carbon sinks in natural forests.<sup>5</sup> The Convention to Combat Desertification is concerned with forests in arid regions. As anticipated, the Biodiversity Convention has paid the most attention to forest issues: According to estimates, the forest ecosystems of seven countries (Australia, Brazil, Colombia, Indonesia, Madagascar, Mexico, Democratic Republic of Congo) account worldwide for some 40 % of mammal species, 79 % of all primate species, 69 % of all bird species, and 50 % of all plant species. In keeping with the importance of forests for species protection – which continues to be regarded as a paramount goal by all actors involved in the Biodiversity Convention – the adoption of a CBD forest work program was one of the convention's priorities.

Comparing the Biodiversity Convention's forest work program with the proposals for action advanced by IPF/IFF (see AFFA/PROFOR 2003), we find a large measure of agreement between the documents. On the whole, the IPF/IFF proposals for action are broader and set out in more detail than the CBD forest work program. Some of the gaps in the CBD have to do with a number of measures designed to promote sustainable integrated forest management, mobilization of private- and public-sector funds to finance it, participation of local communities, indigenous groups and forest owners, and researchers. The forest work program does not provide for any measures in countries with low forest cover.<sup>6</sup>

Comparing the international forest debate surrounding the Rio Earth Summit with the state of affairs 12 years later, we find that some substantial progress has been made in several important areas:

- Benefits of forest conservation: In 1992 the position of the developing countries was still influenced by the impression that they would have more to lose than to gain if an international convention were concluded. This perspective resulted from a highly restrictive assessment of the economic benefits of forest conservation. In the meantime, though, even in developing countries the social forces convinced of the local and global ecological benefits and their close interrelation with local social and economic utility functions appear to be gaining the upper hand. Forest conservation is coming more and more to be seen as a real common goal, one from which all may profit.
- Forest conservation as a bargaining chip in international talks: In the early 1990s a considerable number of developing countries were still vociferously insisting that there is a link between deforestation and external debt, seeking to condition any concessions on their part on movement among the industrialized countries on the debt issue. Forest conservation thus became a bargaining chip for negotiations that had very little to do with forest issues. This perspective has now been replaced by a more differentiated view which, without losing sight of the pressure of debt service, still sees scopes of action for national policy and acknowledges the responsibility of national actors which this implies.
- These two changes – identification of a common global interest and acknowledgement of national responsibility for deforestation and forest degradation – have substantially improved the conditions for integrative (instead of confrontational) negotiating strategies between industrialized and developing countries.

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5 As far as the forest sector is concerned, funds from the Clean Development Mechanism are restricted to use in afforestation projects.

6 Annex 1 lists the proposals for action that have been made by IPF/IFF and are not reflected in the CBD forest work program.



In all likelihood the main driving force behind this progress was the fact that the concept of sustainable forest management was taken up and broadened – much in the sense of the definition of sustainability set out by the Brundtland Commission and in connection with the Rio ‘sustainability triangle.’ In other words, today sustainable forest management no longer implies a need to secure a continuous production of timber, it means that forest ecosystems must be viewed holistically, and that they provide a broad spectrum of environmental services and have concrete social, cultural-religious, and economic functions. Furthermore, according to the IPF the aim of sustainable forest management should be achieved on the basis of individual national forest programs which define forest-policy targets and serve to ensure that forest policy is coherent with the measures taken by other ministries.

However, there continue to be differences between industrialized and developing countries:

- Surrender of a measure of national sovereignty over forests: Despite the common global interest in the ecological, social, and economic benefits that may be achieved on the basis of sustainable forest management, many developing countries insist on preserving their full national sovereignty over the natural resources on their territory. This is in line with the second principle of the Rio Declaration, which expressly recognizes this national sovereignty, while at the same time linking it with the obligation to prevent any border-crossing environmental damage stemming from activities conducted on national territory. One issue that remains contentious is whether a legally binding international instrument is required for the purpose. Thus far the international community has only been able to agree on the proposals for action advanced by IPF/IFF, which are conceived as an orientation for national forest policies.
- Calls for a legally binding international instrument: Industrialized countries in particular continue to call for such an instrument. However, some individual developing countries have now come to embrace the proposal; these include e.g. India, Malaysia, Papua New Guinea, the Philippines, the Solomon Islands, Tunisia, and Costa Rica. At the same time, the US has opted out of the consensus among the industrialized countries, noting that it, like a number of developing countries, ranks protection of the principle of national sovereignty in the forest sector higher than the benefits that may be derived from improved international cooperation.
- Funding: Developing countries are calling for additional financial resources as a condition for their acceptance of a legally binding international instrument for the forest sector. Studies by the World Bank have shown that development cooperation funds are of fundamental importance in achieving progress on sustainable forest use and the protection of biodiversity – provided that the developing countries implement the institutional and technical reforms required for the purpose (see Lele 2002, p. 3). At the same time, the industrialized countries are at present relatively reluctant to provide any additional financial resources for international forest protection.

The most important advance made thus far – consensus on the need for and the direction of national reforms in forest policy and other policy fields with substantial impacts on forest resources – has tended to shift the focus of attention to national forest-relevant processes.

#### 4 Approaches to forest-relevant reform at the national level: national forest programs

The late 1980s saw the launch of the first attempt to initiate measures against the destruction of the world’s tropical forests, the Tropical Forest Action Plan (TFAP). Yet despite some initial encouraging signals (cooperation between WWF, FAO, WRI, and national governments; broad involvement of the tropical-forest countries), the TFAP failed. The reasons must be sought above all in the plan’s restriction to forest-policy measures in the narrower sense, i. e. in a certain neglect of causal complexes of a nonforest nature as well as in a pronounced emphasis on the promotion of forest uses and timber-pro-

cessing, but without seeking at the same time to ensure that unsustainable practices were discontinued. It has, for instance, been shown that in some countries the TFAP was even encouraging – albeit unintentionally – deforestation (see Humphreys 1996). The forest-related approaches used in development cooperation were then sharply modified in the wake of the criticism leveled at the TFAP, with the World Bank discontinuing its support for commercial activities in tropical forests and subjecting other development projects to a more stringent analysis of their forest-relevant impacts.

The national forest program approach developed in the framework of the IPF represents an important innovation in forest policy. Its aim is to create a comprehensive political framework for national approaches designed to promote sustainable forest management: to encourage “the conservation, management and sustainable development of a country’s forests so as to cope with the local, national, regional and global needs and demands of the present and future generations”(BMZ 2004a, p.2). National forest programs involve all relevant actors at all administrative levels; they are concerned both with forest policy in the narrower sense and with its links to other macropolicy and macroeconomic or sectoral processes, and they are conceived not as a traditional governmental planning instrument but as a participatory dialogue process for defining and jointly implementing goals and results. In this sense the instrument of the national forest program has its place among the set of new, soft governance instruments that do not lose sight of the diminishing governance capacity of central state institutions and focus instead on cooperative processes involving various groups of political, economic, and social actors.

The principles of national forest programs therefore stress, among other things, national sovereignty and ownership as well as the need to incorporate them into the implementation of international agreements, to use decentralization as a means of strengthening subnational forces, to recognize the traditional rights of local communities and indigenous groups, and to aim for coherence between forest-related, environmental, and other policy goals. The outcome of such programs is thus a holistic and cross-sectoral approach to forest use and forest conservation.

This approach also makes it possible to forge links between national forest policy and the new dynamics of forest policy stimulated in the 1990s by a number of initiatives by NGOs and sections of the private sector. These would include the voluntary certification of forest management on the basis of ecological, social, economic, and legal criteria advocated by the Forest Stewardship Council (FSC) as well as the diverse processes conceived to develop nationally and regionally adapted criteria and indicators of sustainable forest management – in which 140 countries are involved at present – and campaigns designed to combat the export of illegally logged timber – which was initiated by NGOs and in which the EU is set to become involved with specific measures in the framework of FLEGT (see European Commission 2004). These initiatives are geared to a strong involvement of the private sector, and they have contributed to broadening the concept of sustainable forest management.

How can recent national forest reform processes best be assessed? What role have the IPF / IFF proposals for action played in this connection? On behalf of the BMZ, the GTZ has conducted a number of country case studies with a view to these questions and documented the lessons learned.<sup>7</sup> To sum up some of the important findings:

- In all countries investigated, forest-sector reform efforts are oriented to elements of national forest programs. However, only in exceptional cases is explicit reference made to the proposals of IPF/IFF; the latter are as good as unknown to actors at the national level. Even so, the principles and guiding ideas of the national forest programs have played an important role in shaping sectoral reforms, and have thus become the common sense of reform actors in the forest sector.

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7 See BMZ (2004b). The countries concerned are Brazil, Bulgaria, Chile, China, Ecuador, Honduras, Indonesia, Cambodia, Cameroon, Malaysia, Paraguay, Tanzania, Tunisia, Uganda, and Vietnam; the studies have also looked into the ASEAN region as well as the Amazon and Congo basins.

- All reform strategies acknowledge the goal of sustainable forest management, and as a rule they likewise contain targeted policies and programs. The crucial weakness must be seen in the implementation of these innovations. To cite an example, unsustainable forest management practices continue to dominate in all countries investigated, the reason being that these practices are, at least in the short term, more profitable than e.g. the introduction of reduced-impact logging, aside from the fact that the responsible authorities lack the capacities they need for monitoring and enforcement of relevant laws.
- While reference is made to the three Rio Conventions, these references are as a rule vague, and for this reason concrete synergies are achieved only in exceptional cases. Coordination with other sectors, e.g. with agricultural policy, is seldom mentioned. This is a reflection of the still weak mechanisms of inter- and intraministerial coordination in the countries concerned. If these mechanisms are on the whole inadequate to the task, a given sector will be unable to overcome these deficits on its own.
- The crucial factors noted for successful sectoral reform processes included the political will of the governments concerned, the formulation of clear goals and strategies, and long-term (>10 years) support by the donor community. These three factors give some indication of what both pro-reform actors and their external backers should concentrate on if they are to improve a reform project's chances of success. A reform program need not be fully comprehensive and include all principles and fields of action, but it must be conceived in such a way as to mobilize and secure political support at the highest level. While it is essential to discuss forest policy with a view to its diverse links with social, economic, and political interest groups as well as in terms of the ecological potentials and risks it implies, this complexity need not be strictly reflected in goals and measures. Limitation to clearly structured, focused, and achievable goals (with a view to subsequent evaluations and enlargements) is a good way to increase the chances of implementation. Finally, the studies also have found that long-term support of development cooperation has been highly instrumental in building the critical mass needed for the reform process as well as to sustain, in the sense of the IPF/IFF proposals, the process of structural change at the level of models, strategies, procedures, and instruments. Expert advice and provision of financial resources are likewise important contributions to supporting pro-reform governments in designing and implementing their programs.

This brief analysis indicates that the international forest-dialogue process has in fact been fruitful in that it has had an influence on the strategic direction of reform programs in the forest sector. The countries with the most pronounced willingness to learn from this international process are those that have, at least in certain phases, actively participated in it, e.g. as pilot countries for the implementation of the proposals for action. It has likewise become clear that the initiative for such reform processes was not engendered directly by the IPF/IFF process and that the effects of the IPF/IFF proposals for action have for the most part been indirect, e.g. in that they have served as a backdrop or an orientation for the advisory services provided in connection with development cooperation.

The international level was important, though not decisively, for the success of reform programs, particularly as far as the support provided by development cooperation is concerned. Instead, the crucial factors were on the one hand the national process of forest-related policy formation and on the other reform processes in other higher-level areas or fields particularly relevant to the forest sector. This finding is in line with the analysis of the underlying causes of deforestation and forest degradation. What does this mean in view of the question of whether or not it makes sense to work toward an internationally binding forest-policy instrument? This question will be addressed in the following section.

## 5 The Rio Conventions – some conditions essential for successful negotiations, and some reflections on their effectiveness

The analysis of national forest programs has shown that the crucial bottlenecks involved in forest reform at the national level must be sought in the areas of policy formation, capacity-building, and interlinkages with other sector policies. As in other sectors, the role of development cooperation is to provide financial support and advisory services. The question here is whether and to what extent the signing of a forest convention or another legally binding international instrument could serve to strengthen or accelerate national reform processes. The country studies on national forest programs show that those developing countries that are in favor of such an instrument have as a rule been actively involved in the IPF/IFF process. Still, the proposals made in the course of the process have not become widely known and have served only indirectly to guide action. Since the IPF/IFF proposals for action are not legally binding, the question is whether a convention or something on the order of a convention might not become more widely known or prove more effective.

The experiences made in recent years with the three Rio Conventions – climate protection, biodiversity, and combating desertification – provide some important information on this question. Viewed in the light of these experiences and of comparative environmental-policy research, the following points are among those required for the successful conclusion of an environmental convention:<sup>8</sup>

- a consensus among the main actors involved as regards the definition of the problem (causes, consequences, approaches);
- adequate consideration of regional differences (e. g. development levels, ecology) and at the same time agreement on overriding principles and goals;
- for all groups involved, manifest benefits of a cooperative, solution-oriented strategy at the international level;
- involvement of all relevant actors (avoidance of veto coalitions); and
- provision by industrialized countries of additional funds for measures in developing countries and countries in transition.

In all cases of multilateral environmental agreements a period of between 30 and 40 years has elapsed between the definition of a given environmental problem and the signing of an international agreement designed to address it. The situation was different in the cases of CITES – the convention on international trade in endangered-species – and the Ramsar Convention on the Protection of Wetlands of International Importance, two of the very earliest international environmental conventions, which were concluded in the course of roughly one decade.<sup>9</sup> Two reasons can be cited for this: First, in the 1960s and 1970s the number of competent negotiating partners in the field of international nature conservation was far lower than it is today, and second, nature conservation had not yet been discovered as a global bargaining chip. This meant that at that time the main negotiating parties (individual countries and NGOs or associations of scientists) had far more influence than they do today on the pace of negotiations and the formulation of treaty texts. Increase of the complexity of international negotiations due to growth in the number of direct and indirect negotiating partners and the need to forge links with adjacent policy fields is one of the most important reasons for the slower pace of negotiations. In other words, today there are tradeoffs between transparency, participation, and efficiency.

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8 For general information, see Porter / Brown (1991) and Young (1998); for specifically forest-related information, see Humphreys (1996).

9 See the expertise prepared for the Netherlands Ministry for Agriculture, Nature, and Food Quality. It analyzes a number of existing international environmental conventions (CBD, Cartagena Protocol, UNFCCC, UNCCD, Ramsar Convention, CITES, ITTA, IPF/IFF/UNFF) with a view to deriving conclusions on a legally binding forest instrument. See Pülzl / Rametsteiner / Tarasofsky (2004).

From the perspective of research, it would be important to gauge the effectiveness of international environmental conventions mainly in terms of whether and to what extent such agreements have contributed to changing the behaviors of the most important perpetrators, and thus to coming up with concrete solutions (see Young 1998). What this implies is that efforts should not focus primarily on mere compliance with given rules and targets, since, first, this alone is not necessarily sufficient to come to grips with a given problem and, second, the effects of an international environmental regime may also consist in indirect, unintended positive effects. To render these effects transparent, it is important to embed the analysis of output, outcome, and impact (e.g. in the sense of laws, rules, changes in behavior, and their impacts) in their proper context. This implies e.g. not only looking into the laws adopted and rules agreed upon in terms of their (potential or actual) effectiveness but also analyzing the process in which they have come about and the social practice in which they are applied.

The relevant analyses presented thus far on the effectiveness of the Rio Conventions – i. e. including analysis of impacts on the ground – extend only to subsectors, above all to the economic effects of the Kyoto Protocol instruments. In other words, at present the available information base is not sufficient to come up with any general, empirically validated propositions. It is, however, possible to specify a number of factors that influence the effectiveness of such conventions:<sup>10</sup>

- problem structure (high or low number of actors to be involved; possibilities to evade the terms of a convention / proneness to crime of the branches of industry concerned; the long-term nature of the feared impacts of an environmental problem; the finite nature of given resources / the potentially infinite need for cooperation);
- regime features (degree of flexibility; methods agreed on for systematic monitoring and revision; adequateness of decision-making procedures and rules; funding);
- social practice (degree of institutionalization; legitimization procedures; possibilities open for civil-society organizations to participate);
- institutional linkages (horizontal linkages with other conventions; vertical linkages between administrative levels and levels of action);
- economic and political framework conditions (e.g. armed conflict / stable conditions).

One common feature of the Rio Conventions is that they are designed to deal with environmental problems associated with highly complex chains of causes, damage profiles, and impacts. This complexity is an obstacle in the path of attempts to craft an internationally binding regime. By way of contrast, we may refer here to the positive experiences made with the Montreal Protocol on protection of the ozone layer, an instrument finalized at the end of the 1980s, and one that has already generated a number of clear-cut successes. This was due to the identification of a clear chain of causes and effects (CFC as the most important causal factor) and a tangible, not all too complex perpetrator structure (producers and users of CFCs).

The benefits or the surplus value of the Rio Conventions may be summarized as follows:

- the political weight of the problem field addressed in the conventions has increased at the national level: Civil-society and other interest groups and social movements can point to the obligations assumed by their government and/or the other signatories and demand that they be complied with; this can serve to more effectively politicize the issue and influence political opinion in the countries concerned;
- the principle of “common but differentiated responsibilities” requires national problems to be placed in a global context and actors to assume responsibility: the Rio Conventions pursue an approach that assigns common responsibility to industrialized and developing countries for

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<sup>10</sup> Some of these factors have already been discussed above as conditions required to ensure the success of negotiating processes.

finding solutions to global problems. This serves to place the central focus on national and local causes and manifestations of these problems, and thus on the different degrees of responsibility and affectedness of all those involved, and to underline the need for national reforms;

- conventions foster the juridification of environmental goals in a number of sectors at the national level: once a convention has been signed, pressure starts to mount at the national level for the adoption of appropriate legislation; even though this may not automatically reduce deficits in implementation or enforcement, it does tend to initiate the gradual processes of institutional learning and change that are needed to bring about altered political constellations conducive to greater reform-mindedness;
- conventions are geared to coordinated international action: the present crisis of multilateralism, brought about by the greater weight attached by the US to national sovereignty, has served to substantially slow down negotiations, with tangible successes becoming rare. This, however, is no sign that approaches geared to coordinated international action as a means of solving border-crossing problems have become a thing of the past; conventions constitute important learning experiences in global governance and set the stage for the development of formal and informal networks of governmental and nongovernmental actors that may sustain and accelerate learning processes in the fields concerned;
- the political dynamics unfolding immediately after the 1992 Rio Earth Summit made it possible to mobilize additional financial resources for measures in developing countries and countries in transition; these additional financial resources were important in that they demonstrated the willingness of the industrialized countries to act as well as to fund concrete measures. At present these funds are made available in the framework of the Global Environment Facility (GEF); in the future this responsibility is likely to devolve on special instruments of the climate convention (Clean Development Mechanism and Joint Implementation). Unfortunately, thus far the chance has been missed to harness these dynamics toward the end of sustained increases in ODA. The financing requirements involved continue to overtax the willingness of the industrialized countries to pay, and the budgets of the developing countries and countries in transition have not been restructured accordingly. These issues are on the agenda of the ongoing debate on the financing of global public goods, and they clearly show that while global environmental governance is a difficult process, one still in its infancy, it is nevertheless a process that is absolutely necessary.

Global environmental policy is thus inconceivable without the Rio Conventions. Still, we can observe a certain measure of convention fatigue fueled by the fact that practical changes take considerable time to become visible on the ground. As regards the potential costs of a convention:

- conferences of the parties to a convention are marked by highly costly, formalized negotiation processes: the UN principle that all member states are equal creates substantial space for blockades by veto coalitions; it furthermore reinforces a tendency to assess results in quantitative terms (so and so many countries have prepared a national action plan) instead of focusing on qualitative criteria (are these countries relevant for the global problem under consideration?); one exception here would be UNFCCC, which links country votes with the share of worldwide CO<sub>2</sub> emissions for which they are responsible;
- the modalities involved favor confrontational negotiating styles: the formation of camps of industrialized and developing countries encourages the parties to adopt negotiating styles motivated more by pursuit of traditional interests policies than by cooperative policy patterns geared to reaching common global goals (global governance). In an environment of this kind position-related gains count for more than progress in clarifying a given state of affairs or than the actual contribution this might mean for the protection of the climate or biodiversity;
- conventions without any dedicated financial instruments meet with little or no acceptance on the part of developing countries and countries in transition;

- there is a marked gap between agreements on goals and their implementation: reform backlogs in many industrialized countries, which have of course committed themselves to providing input-related funding, tend to undercut the credibility of convention processes; an additional problem, above all as regards developing countries and countries in transition, is that international negotiations require sizable personnel and financial resources which are then no longer available for measures at the national or local level;
- the effects of conventions become visible only over the long term: long-term successes are difficult to explain politically; if it turns out to be impossible to demonstrate such successes in on-going changes, this is likely to prove bad for the day-to-day business of politics.

However, these costs are not enough to declare the instrument of the “environmental convention” to be obsolete. Indeed, the experiences made thus far (see Box 1: The benefits of the Rio environmental conventions) clearly indicate the preponderance of the anticipated long-term benefits of a legally binding, cooperative approach. Even though this also applies in the case of sustainable forest use, it is nevertheless essential to justify the short- and medium-term negotiation costs involved in concluding an agreement vis-à-vis the long-term benefits stemming from an agreement.

## 6 The pros and cons of a legally binding instrument of international forest policy

Four questions emerge against the background of the present discussion: Are the necessary conditions given for a successful signing of a forest convention as well as for an effective implementation of it? What benefits could be realized? Are the accruing costs affordable? What damage might result for the case that no negotiations should materialize?

The necessary conditions:

- all parties involved in the international forest dialogue have now reached a relatively broad consensus on the definition of the problem (causes, consequences, and approaches); the core is the definition of and stress placed on the concept of sustainable forest management as an integral approach for focusing attention on the ecological, economic, cultural, and social functions of forests;
- however, there is as yet no such broad and stable consensus as regards the effectiveness, goals, and fields of action of a legally binding instrument on forests;
- the proposal for a framework convention similar to the CCD, with regional annexes, envisages adequate consideration of regional differences and at the same time agreement on a set of common overriding principles and goals;
- the benefits of a cooperative strategy at the international level that all relevant parties can reap in the long term; however, the developing countries will condition their agreement on the provision of additional financial resources with a view to achieving short-term benefits as well; in the opinion of experts, however, the industrialized countries are unwilling to pay more than they have until now;
- when the present study was under preparation, there were likewise no assurances that all relevant actors would agree to a convention; however, the closed front presented by the developing countries in the 1990s has crumbled, with a number of tropical Asian countries now expressing their willingness to entertain the idea of a convention.<sup>11</sup>

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<sup>11</sup> This trend has been confirmed at a meeting of the UNFF ad hoc advisory group on a legally binding instrument in September 2004, where even more countries appeared to be in favor of adopting such an instrument.

**Box 1: The benefits of the Rio environmental conventions<sup>12</sup>**

UNFCCC: The convention's aim is to "stabiliz[e] [...] greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system." (Article 2 of the Framework Convention). The 1997 Kyoto Protocol sets out goals for reducing CO<sub>2</sub> emissions of industrialized countries between 2008 and 2012. The ratification process for the protocol had only been completed in October 2004, and it still cannot not count on the support of the US, the largest individual CO<sub>2</sub> emittant. Nevertheless, a number of industrialized countries (EU, Canada, Czech Republic, Norway, and Japan) have already committed themselves to meeting their obligations under the protocol. This is essential to ensuring the – albeit reduced – effectiveness of the protocol as well as to setting the stage for a second phase of negotiations post 2012, which will be concerned, among other things, with the obligations of the developing countries. The lasting significance of the protocol is that it raises expectations that trade in emissions, the Clean Development Mechanisms, and Joint Implementation can serve to mobilize additional financial resources for energy-relevant investments. The crucial factor here was the involvement of private-sector actors. This gave a huge boost to the issue of renewable energy technologies, raising awareness of it in the more dynamic developing countries as well. This would not have been possible without the convention. Also, the increased number of extreme weather phenomena experienced in recent years have made it easier to explain the issue in public. However, the measures projected by the industrialized countries are unlikely to suffice to distinctly reduce CO<sub>2</sub> emissions in a short period of time. This has two implications: The pressure of negotiations will increase enormously, and the calls for the international community to provide support for adaptation measures for climate change will increase sharply in the medium term. These follow-up costs could even exceed the costs of mitigation

CBD: The convention's goals are protection of biodiversity, sustainable uses of its components, and a fair and equitable sharing of the benefits stemming from the use of genetic resources. The conclusion of the convention has given a huge boost to the efforts of the signatory parties to identify areas for the in situ protection of biodiversity. The crucial factor here was the insistence of the developing countries that the treaty text include a passage on sustainable use and fair access and benefit-sharing (ABS) and that biodiversity be explicitly recognized as a national good. This served to reinforce the ownership of developing countries and to set incentives to identify and develop the economic benefits of biodiversity protection. The objective significance of the bearers of traditional knowledge was also officially recognized. This has enabled these persons to gain economic advantages and to improve their social status. One development of major political significance is the alliance forged in 2002 between a group of highly biodiverse countries that have pledged to work together for the implementation of the CBD (see the Cancun Declaration of 2002). This alliance includes 12 megadiverse countries that account for roughly 70 % of the world's biodiversity. Experts are of the opinion that this alliance has good chances to uphold the validity of the ABS provisions against the TRIPS agreement, which covers intellectual property rights in the framework of the WTO.

CCD: Desertification is primarily a problem caused by local or national interventions; but in its impacts the problem entails a crisis potential of global dimensions inasmuch as it is bound to cause growing income losses in rural regions and to exacerbate problems associated with food production. An additional factor must be seen in the negative impacts of desertification on biodiversity and the climate. The convention's task is to define and take internationally coordinated measures, in particular in LDCs that are unable to take measures on their own and are especially vulnerable to the effects of desertification. The character of the problem, its causes, consequences, and the appropriate countermeasures, have many parallels with the forest problematic. One of the benefits of the convention was to heighten the perception of the problem and to put it on the political agenda. The countries concerned have adopted many of the findings of development cooperation and translated them into national law. The CCD sets out different obligations for industrialized countries and affected developing countries as well as joint responsibilities; regional convention annexes are used to address regional particularities. The tough wrangling over additional convention-specific funds for the implementation of the measures concerned has clearly shown that there will be no acceptance of such conventions if they do not have financial instruments of their own.

<sup>12</sup> This box is based on interviews conducted with the persons responsible for the GTZ's sectoral projects on the three Rio Conventions.



## The benefits:

- boosting the political weight of the forest problematic and assigning national problems to their proper global context: this would be the most important goal of a convention, and it would probably be possible in a number of countries, above all if, in analogy to the Rio Declaration and the CBD, the formulations used clearly stated that countries' national sovereignty over their forests would not be questioned;
- promotion of the juridification of forest-policy goals: a convention could accelerate this process and use capacity-building measures to help reduce implementation deficits and weaknesses in intersectoral coordination at the national level;
- learning from coordinated international action: the potential signatory parties are already involved in such learning processes in connection with other conventions; a forest convention could mean additional benefits here inasmuch as it would focus attention on issue areas that are not priorities of existing conventions (above all sustainable forest management);
- mobilization of additional financial resources, in particular in industrialized countries, for measures in developing countries and countries in transition: this benefit would have to be assured to prevent funds from being drained into a forest convention from the budgets of the other three Rio Conventions. Conventions are an important instrument that can be used to focus development cooperation and place it on a more viable legitimacy basis. The Rio principle of common but differentiated responsibilities is easier to explain to voters, and probably even more reasonable than to expect public support for a development cooperation defined in purely altruistic terms. One important approach here is the proposal of the German Advisory Council for Global Change (WBGU) to pay for the nonutilization of national environmental goods of global value (see Box 2).

**Box 2: Payment for nonutilization commitments (NUCs)**

This proposal on mobilizing additional financial resources for investments in environmental and resource protection focuses on national environmental goods the conservation of which entails global benefits. These would include e.g. protection of biodiversity, and thus of forest ecosystems, soils, and water. The use of these goods would be regulated by national law. The problem is that there are at present hardly any financial incentives to encourage countries to relinquish the (for the most part short-term) national benefits associated with the degradation of these goods in favor of medium- or long-term benefits. The WBGU for this reason proposes that countries be rewarded for abandoning unsustainable uses or for adopting sustainable forms of utilization. The funds would be used at least in part to compensate those countries that have until now derived revenues from unsustainable utilization patterns.

To implement NUCs, it would be possible – in a way similar to the trade in CO<sub>2</sub> emissions – to create markets for nonutilization units or nonutilization obligations that could be offered for sale or purchased by countries with abundant or less valuable natural areas and resources. One issue that would have to be clarified is what forms of utilization are permissible and who is to pay or to receive payments. Furthermore, it is essential to avoid a situation in which, in advance of such multilateral agreements, such payments are driven upward by countries bent on stepping up the degradation of their natural resources.

Source: WBGU (2003).

## The costs:

- costly, formalized negotiation processes: a convention would strain the manpower resources of the responsible ministries – although these ministries are as a rule already active in the UNFF and might as well provide fruitful contributions in the processes of negotiating a convention;

- confrontational negotiating styles: the agreements reached in the framework of IPF/IFF and UNFF have created a consensus; but there are likely to be confrontations over the exact goals of the instruments proposed (see below) as well as on financial endowments;
- major time gap between an agreement on goals and its implementation: this problem has already made itself felt in connection with national forest programs and the Rio Conventions; it is one of the arguments cited by NGOs in 1997 when they called for “action instead of negotiation”;<sup>13</sup>
- politically difficult to explain because the processes involved are long-term in nature: what would be expected of a forest convention is that it achieve rapidly visible reductions in deforestation rates; this is unrealistic because, as was noted in Chapter 2 (causes), the concern here is above all structural change in trends and altered growth strategies; however, a legally binding international instrument would be unable to bring these changes about in the short term, as experiences with the Rio Conventions have shown; in other words, a forest convention would run the unintended risk of further undermining the legitimacy of processes of global environmental governance.

Despite these costs of the negotiation process, it is important to bear in mind that the costs of nonnegotiation would be likely to be higher in the long run.

In most developing countries the support offered thus far by the international community for action against deforestation has not been sufficient to reverse the trend of secular deforestation observed in the past decades. Heightened commitments are needed to strengthen those groups in developing countries that work actively to prevent short-term economic growth from being achieved at the expense of forests. What this means is that, apart from continuing actions, the time has come to engage in negotiations that are more binding than those that could be conducted in the framework of the international forest dialogue. One approach to reaching such a higher level of binding force could be sought in a new forest convention that defines the framework for the various regional processes designed to promote sustainable forest management and that serves to focus all donor-supported measures. Compared with the alternatives, the proposal on a framework convention with regional annexes appears to be the most suitable one.<sup>14</sup>

- conventions with a narrow set of aims: agreements of this type – which would include e.g. the International Tropical Timber Agreement (ITTA) – are markedly implementation-oriented and may be equipped with time limits designed to set the stage for new negotiations at regular intervals; the drawback is that such an approach would either be unlikely to reach broad agreement on a reduced goal spectrum or prove too costly;
- protocol under an existing convention: protocols are a means of reaching agreement on concrete stages of implementation and are designed to ensure that the overriding goals of the parent convention are in fact met. This advantage proves at the same time to be a drawback: protocols are dominated by the goals and institutional arrangements set out in the parent convention. What this means in the cases of the UNFCCC and the CBD is that the goals bound up with conservation of forests (as CO<sub>2</sub> sinks or habitats for biodiversity) would tend to interfere with or mask other goals such as sustainable forest use and poverty reduction.<sup>15</sup>

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13 See the position papers presented by FERN (1997) and Greenpeace (1997).

14 See Pülzl / Rametsteiner / Tarasofsky (2004), pp. 22–26.

15 In the opinion of the WBGU, the UNFCCC is not making use of its full potentials. The WBGU thus recommends conclusion of a forest protocol under the Climate Framework Convention as a means of setting an incentive to protect forests as carbon sinks. See WBGU (2003).

**Box 3: Possible elements of a forest framework convention**

Framework convention designed to specify overriding goals and fields of action (see Box 4)

Regional annexes covering the implementation of goals at the regional level

Regional and interregional coordination of measures in current programs such as FLEGT and NFP<sup>16</sup>

Compared with these alternatives, a framework convention with regional annexes would have the advantage of combining development and coordination of policies and laws, which are in keeping with self-defined goals (framework convention), with the element of flexible cooperation in implementation (regional annexes). Furthermore, the regional annexes would make it possible to define differentiated priorities and implementation strategies in line with regional and national givens. This is necessary because the obstacles and approaches to improvements in the forests of Africa, Latin America, and Asia are very different in nature. This point can be illustrated with reference to the EU action plan on combating the trade in illegally logged timber (FLEGT). At present African countries are expressing pronounced interest in cooperation. One of the reasons for this interest is the major influence wielded in the region by foreign – and chiefly European – corporations, which have come under growing critical public pressure at home. In Latin America, on the other hand, FLEGT is negotiated directly with governments (environment ministries, forestry authorities), and the action plan has not made much headway there, even though some individual governments (e.g. Brazil) have in recent years expanded their activities in the field. The situation in Asia is dominated by the conflict between Malaysia and Indonesia over the processing and export of illicit timber from Indonesia.

**Box 4: Possible goals and fields of action of a forest framework convention**

- Promotion of sustainable forest management as an effective approach to forest protection and reduction of poverty among forest-using population groups,
- Efforts to combat deforestation and forest degradation as a means of protecting the ecological, economic, social, and cultural functions of forests for present and future generations,
- Capacity-building geared to sustainable forest management and the implementation of national forest programs, including promotion of participation, consideration of traditional knowledge, and technology transfer,
- Cooperation on improvement of forest-reporting.

Additional financial resources for the implementation of these goals should be provided through the GEF.

In defining the goals of a forest framework convention it would be possible to build on two foundations: first, on the 16 thematic fields set out in the IPF/IFF proposals for action and second, on the seven thematic fields common to all regional and national processes concerned with criteria and indicators (C&I) of sustainable forest management (see Annex 9.2, below). In 2003 the FAO Committee on Forestry accepted these seven elements of C&I processes as the central components of sustainable forest management; this step – an important step forward – was likewise taken by UNFF 4 in March 2004. The goals of a forest framework convention should be closely related to poverty reduction, extend to the core elements of the IPF/IFF proposals for action and the above-mentioned elements of C&I, and serve to complement the Rio Conventions. Furthermore, cross-sectoral coordination should

<sup>16</sup> There is some controversy over the advisability of integrating certification / C&I processes within a legally binding international convention, since the dynamics of these processes hinge largely on their voluntary nature. Policy development and coordination could focus on the question of the instruments best suited for use by the public sector in promoting the diffusion of certification.

derived directly from the convention's goals if it is to do justice to the fact that deforestation and forest degradation are as a rule encouraged by policies and processes that are beyond the control of environment ministries or forestry authorities.

Another important point here is the need for exact coordination with the new International Tropical Timber Agreement, which is presently under negotiation and is likely to include coniferous timber products as well. Compared with its original, narrow mandate, which was originally restricted to the trade in tropical timber, the ITTA has substantially enlarged its fields of action: Support for sustainable forest management, definition of criteria and indicators for sustainable forest management, and promotion of pilot projects for sustainable forest management have in recent years moved more and more into the center of attention. The conclusion of a forest convention could relieve the ITTA of these functions and allow it to return to its focus on trade aspects (including the aspects mentioned in connection with the EU's FLEGT action plan).

The thoughts set out above constitute the basis for an assessment of the proposals advanced by BMVEL and BMU on a forest convention: The former proposes a convention restricted to the goals of forest area conservation and the latter advocates a forest protocol under the umbrella of the CBD. Neither proposal is particularly likely to lead to a successful agreement. The reasons are as follows:

- neither meets the conditions required for consensus, because, in view of the goals of forest area or nature conservation, both proposals place too little emphasis on the economic and social functions of forests – as envisioned under the concept of sustainable forest management;
- this in turn would mean that the benefits stemming from a forest convention would no longer be visible for the developing countries and countries in transition;
- finally, it would also rule out the possibility of mobilizing a sufficient number of advocates.

These proposals cannot be recommended to the German government as a model for defining its position.

## 7 Findings and recommendations

In the light of the considerations discussed above, the BMZ should decide to work for a forest framework convention with regional annexes. In this way the German government would be perceived as an active supporter of an international initiative on the sustainable use and protection of all forests. The following minimum conditions would have to be met to ensure a successful course of negotiations:

- timely formation of a like-minded group, at least within the EU, and ideally including G77 countries, that would work out proposals and exert substantial and protracted influence on the negotiation process;
- appropriation of additional budgetary funds to boost suitable GEF operational programs (e.g. 3, 12, and 15) or to finance additional operational programs.

Should it prove impossible to meet these conditions, the appropriate choice would be a piecemeal approach; i. e. a combination of different instruments at the multilateral, global, bilateral, and national levels, which would be geared to countering the problem of deforestation and promoting sustainable forest management. The root causes of the problem must be sought mainly at the national level (above all lack of policy coherence, inadequate enforcement of forestry and environmental legislation, unregulated private sector); this is the focal point of the national forest programs supported by the donor community. It should furthermore be borne in mind that linkages with the global issues of climate change, biodiversity protection, and anti-desertification efforts would boost the chances of success of sustainable forest management; it would be essential to identify and utilize these linkages and to undertake greater efforts to get more forest-relevant actors on board the Rio Conventions.

The piecemeal approach would focus on strengthening the forest-relevant measures set out under the Rio Conventions and geared to sustainable forest management as well as on forging links between the conventions and national forest programs. It would also be important to further develop regional approaches designed to ensure the protection and sustainable use of forests (e.g. in the Amazon and the Congo basins, and in the Mekong delta). At the same time, it would be important to support and advance other measures, including efforts to combat the export of illegally logged timber (FLEGT, AFLEG) and to promote certification. Continuation of the international forest dialogue, e.g. in the framework of a new UNFF mandate, would not appear to be reasonable.

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## Annex

### List of fields of action that do not figure in the CBD forest work program

- Provide general, cross-sectoral, and specific advice to countries on national forest programs, forest policies and the design and administration of economic instruments and tax policies to promote sustainable forest management (IFF 115f, 140a, 142b)
- Involve relevant interested parties in the extension, planning, implementation, monitoring, and evaluation of forest research (IPF 17e and 94d)
- Enhance government, community and forest owner financing to facilitate local participation in sustainable forest management (IFF 70c and 77f, IFF 64f)
- Promote effective participation in forest decision-making at all levels in low forest cover countries (IPF58b(vi))
- Further develop and enhance widespread access to forest research and information systems making best use of existing mechanisms and networks (IPF 94a, IFF 97c)
- Undertake systematic collection and analysis of forest sector financial flows data to assist informed policy decisions (IFF 30d)
- Undertake reviews of contemporary forest revenue collection systems and the relation of land tenure to deforestation and forest degradation (IFF 67 and 115e)
- Explore ways to establish full cost internalization of wood products and non-wood substitutes, as well as externalities, and share information on findings and implementation (IPF 134a and b)
- Implement policies to secure land tenure and achieve equitable benefit sharing for local communities, forest owners, and indigenous people from sustainable forest management (IPF 29c, IFF 64c, 122b and d)
- Rehabilitation and conservation strategies for low forest cover countries (IPF 58b(ii) and (iv), 40k, 46a,d,e,f, and g, IFF 41h, 143, and 144)
- Implement progressively measures to recognize and respect legitimate property rights, access to and sustainable use of forest resources for local communities and indigenous people (IFF 64d and 115d)
- Encourage private sector investment and reinvestment of forest revenues into sustainable forest management and environmentally sound technologies, through appropriate policies, legislation, incentives, and mechanisms (IPF 69b,c,d, and e, 70b, 77d, IFF 30c, 56b, 115a and b, 122b)
- Improve information systems to enhance coordination and data sharing on ODA programming and the provision of public and private sector financial resources for the implementation of national forest programs (IPF 78a)
- Enhance coordination and collaboration between donors, international institutions and instruments related to forests and explore appropriate indicators for monitoring and evaluating donor funded forest programs (IPF 71a and b)
- Support coordinated deployment of resources for sustainable forest management through national forest programs to improve efficiency and effectiveness of available funds (IPF 70a and d, 17g, IFF 30a)
- Undertake further cooperative work on voluntary certification and labeling schemes, including studying their link with criteria and indicators and their effectiveness in promoting sustainable forest management and exchange information on and experience on these schemes (IPF 133a, b, d, e, and g, IFF 41b)

- Intensify efforts and implement policies to promote the sustainable use of all economically viable lesser-used species in domestic and international markets (IPF 132a and b)
- Promote the dissemination and sharing of environmentally sound technologies to end-users, particularly in local communities, including through efficient use of extension services (IPF 77e, IFF 56f and h)
- Develop institutional synergies with other partners and prepare a comprehensive directory of organizations and instruments engaged in forest-related activities (IFF 141b and c)

<b>Table 2: Relationships between the 16 IPF/IFF themes and the seven C&amp;I themes</b>		
<b>16 themes (IPF/IFF)</b>	<b>Relationships</b>	<b>7 themes (C&amp;I)</b>
1. Formulation and implementation of national forest programs		1. extent of forest resources
2. Promoting of public participation		2. biological diversity
3. Combating deforestation and forest degradation		3. forest health and vitality
4. Traditional forest-related knowledge		4. productive functions of forest resources
5. Forest-related science knowledge		5. protective functions of forest resources
6. Forest health and productivity		6. socioeconomic functions
7. <i>Criteria and indicators of sustainable forest management</i>		7. legal, policy, and institutional framework
8. Economic, social, and cultural aspects of forests		
9. Forest conservation and protection of unique types of forests and fragile ecosystems		
10. <i>Monitoring, assessment, and reporting; concepts, terminology, and definitions</i>		
11. Rehabilitation and conservation strategies for countries with low forest cover		
12. Rehabilitation and restoration of degraded lands and promotion of natural regeneration and planted forests		
13. Maintaining forest cover to meet present and future needs		
14. Financial resources		
15. International trade and sustainable forest management		
16. International cooperation in capacity-building and access to, and transfer of, environmentally sound technologies to support sustainable management		
The themes in italics (left-hand column) are integrated within the C&I procedures.		
Sources: FAO (2003), Pülzl / Rametsteiner / Tarasofsky (2004), p. 31		



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